

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 971 & 970
102ND GENERAL ASSEMBLY

2203H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 208.146, RSMo, and to enact in lieu thereof three new sections relating to employment for people with disabilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 208.146, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 37.980, 208.146, and 209.700, to read as follows:

37.980. 1. The office of administration shall submit a report to the general assembly before December thirty-first of each year, beginning in 2023, describing the progress made by the state with respect to the directives issued as part of the "Missouri as a Model Employer" initiative described in executive order 19-16.

2. The report shall include, but not be limited to, the data described in the following subdivisions, which shall be collected through voluntary self-disclosure. To the extent possible, for each subdivision, the report shall include general data for all relevant employees, in addition to data comparing the employees of each agency within the state workforce:

(1) The baseline number of employees in the state workforce who disclosed disabilities when the initiative began;

(2) The number of employees in the state workforce who disclose disabilities at the time of the compiling of the annual report and statistics providing the size and the percentage of any increase or decrease in such numbers since the initiative began and since the compilation of any previous annual report;

(3) The baseline percentage of employees in the state workforce who disclosed disabilities when the initiative began;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(4) The percentage of employees in the state workforce who disclose disabilities**
19 **at the time of the compiling of the annual report and statistics providing the size of any**
20 **increase or decrease in such percentage since the initiative began and since the**
21 **compilation of any previous annual report;**

22 **(5) A description and analysis of any disparity that may exist from the time the**
23 **initiative began and the time of the compiling of the annual reports, and of any disparity**
24 **that may exist from the time of the most recent previous annual report, if any, and the**
25 **time of the current annual report, between the percentage of individuals in the state of**
26 **working age who disclose disabilities and the percentage of individuals in the state**
27 **workforce who disclose or have disabilities; and**

28 **(6) A description and analysis of any pay differential that may exist in the state**
29 **workforce between individuals who disclose disabilities and individuals who do not**
30 **disclose disabilities.**

31 **3. The report shall also include descriptions of specific efforts made by state**
32 **agencies to recruit, hire, advance, and retain individuals with disabilities including, but**
33 **not limited to, individuals with the most significant disabilities, as defined in 5 CSR 20-**
34 **500.160. Such descriptions shall include, but not be limited to, best, promising, and**
35 **emerging practices related to:**

36 **(1) Setting annual goals;**

37 **(2) Analyzing barriers to recruiting, hiring, advancing, and retaining individuals**
38 **with disabilities;**

39 **(3) Establishing and maintaining contacts with entities and organizations that**
40 **specialize in providing education, training, or assistance to individuals with disabilities**
41 **in securing employment;**

42 **(4) Using internships, apprenticeships, and job shadowing;**

43 **(5) Using supported employment, individual placement with support services,**
44 **customized employment, telework, mentoring and management training, stay-at-work**
45 **and return-to-work programs, and exit interviews;**

46 **(6) Adopting, posting, and making available to all job applicants and employees**
47 **reasonable accommodation procedures in written and accessible formats;**

48 **(7) Providing periodic disability awareness training to employees to build and**
49 **sustain a culture of inclusion in the workplace, including rights to reasonable**
50 **accommodation in the workplace;**

51 **(8) Providing periodic training to human resources and hiring managers in**
52 **disability rights, hiring, and workplace policies designed to promote a diverse and**
53 **inclusive workforce; and**

54 **(9) Making web-based hiring portals accessible to and usable by applicants with**
55 **disabilities.**

208.146. 1. The program established under this section shall be known as the "Ticket
2 to Work Health Assurance Program". Subject to appropriations and in accordance with the
3 federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public
4 Law 106-170, the medical assistance provided for in section 208.151 may be paid for a person
5 who is employed and who:

6 (1) Except for earnings, meets the definition of disabled under the Supplemental
7 Security Income Program or meets the definition of an employed individual with a medically
8 improved disability under TWWIIA;

9 (2) Has earned income, as defined in subsection 2 of this section;

10 (3) Meets the asset limits in subsection 3 of this section; **and**

11 (4) Has ~~[net]~~ income, as ~~[defined]~~ **determined** in subsection 3 of this section, that
12 does not exceed ~~[the limit for permanent and totally disabled individuals to receive~~
13 ~~nonspenddown MO HealthNet under subdivision (24) of subsection 1 of section 208.151; and~~

14 ~~(5) Has a gross income of] two hundred fifty percent [or less] of the federal poverty~~
15 ~~level, excluding any earned income of the worker with a disability between two hundred fifty~~
16 ~~and three hundred percent of the federal poverty level. [For purposes of this subdivision,~~
17 ~~"gross income" includes all income of the person and the person's spouse that would be~~
18 ~~considered in determining MO HealthNet eligibility for permanent and totally disabled~~
19 ~~individuals under subdivision (24) of subsection 1 of section 208.151. Individuals with gross~~
20 ~~incomes in excess of one hundred percent of the federal poverty level shall pay a premium for~~
21 ~~participation in accordance with subsection 4 of this section.]~~

22 2. For income to be considered earned income for purposes of this section, the
23 department of social services shall document that Medicare and Social Security taxes are
24 withheld from such income. Self-employed persons shall provide proof of payment of
25 Medicare and Social Security taxes for income to be considered earned.

26 3. (1) For purposes of determining eligibility under this section, the available asset
27 limit and the definition of available assets shall be the same as those used to determine MO
28 HealthNet eligibility for permanent and totally disabled individuals under subdivision (24) of
29 subsection 1 of section 208.151 except for:

30 (a) Medical savings accounts limited to deposits of earned income and earnings on
31 such income while a participant in the program created under this section with a value not to
32 exceed five thousand dollars per year; ~~[and]~~

33 (b) Independent living accounts limited to deposits of earned income and earnings on
34 such income while a participant in the program created under this section with a value not to
35 exceed five thousand dollars per year. For purposes of this section, an "independent living

36 account" means an account established and maintained to provide savings for transportation,
37 housing, home modification, and personal care services and assistive devices associated with
38 such person's disability; **and**

39 **(c) Retirement accounts including, but not limited to, individual accounts, 401(k)**
40 **plans, 403(b) plans, Keogh plans, and pension plans, provided that income from such**
41 **accounts be calculated as income under subdivision (4) of subsection 1 of this section.**

42 (2) To determine ~~net~~ income, the following shall be disregarded:

43 ~~(a) [All earned income of the disabled worker;~~

44 ~~(b)] The first [sixty-five dollars and one-half] fifty thousand dollars of [the~~
45 ~~remaining] earned income of [a nondisabled spouse's earned income] **the person's spouse;**~~

46 ~~[(e)] (b) A twenty dollar standard deduction;~~

47 ~~[(d)] (c) Health insurance premiums;~~

48 ~~[(e)] (d) A seventy-five dollar a month standard deduction for the disabled worker's~~
49 ~~dental and optical insurance when the total dental and optical insurance premiums are less~~
50 ~~than seventy-five dollars;~~

51 ~~[(f)] (e) All Supplemental Security Income payments, and the first fifty dollars of~~
52 ~~SSDI payments; **and**~~

53 ~~[(g)] (f) A standard deduction for impairment-related employment expenses equal to~~
54 ~~one-half of the disabled worker's earned income.~~

55 4. Any person whose ~~gross~~ income exceeds one hundred percent of the federal
56 poverty level shall pay a premium for participation in the medical assistance provided in this
57 section. Such premium shall be:

58 (1) For a person whose ~~gross~~ income is more than one hundred percent but less than
59 one hundred fifty percent of the federal poverty level, four percent of income at one hundred
60 percent of the federal poverty level;

61 (2) For a person whose ~~gross~~ income equals or exceeds one hundred fifty percent
62 but is less than two hundred percent of the federal poverty level, four percent of income at one
63 hundred fifty percent of the federal poverty level;

64 (3) For a person whose ~~gross~~ income equals or exceeds two hundred percent but less
65 than two hundred fifty percent of the federal poverty level, five percent of income at two
66 hundred percent of the federal poverty level;

67 (4) For a person whose ~~gross~~ income equals or exceeds two hundred fifty percent up
68 to and including three hundred percent of the federal poverty level, six percent of income at
69 two hundred fifty percent of the federal poverty level.

70 5. Recipients of services through this program shall report any change in income or
71 household size within ten days of the occurrence of such change. An increase in premiums
72 resulting from a reported change in income or household size shall be effective with the next

73 premium invoice that is mailed to a person after due process requirements have been met. A
74 decrease in premiums shall be effective the first day of the month immediately following the
75 month in which the change is reported.

76 6. If an eligible person's employer offers employer-sponsored health insurance and
77 the department of social services determines that it is more cost effective, such person shall
78 participate in the employer-sponsored insurance. The department shall pay such person's
79 portion of the premiums, co-payments, and any other costs associated with participation in the
80 employer-sponsored health insurance. **If the department elects to pay such person's**
81 **employer-sponsored insurance costs under this subsection, the medical assistance**
82 **provided under this section shall be provided to an eligible person as a secondary or**
83 **supplemental policy for only personal care assistance services, as defined in section**
84 **208.900, and related costs and nonemergency medical transportation to any employer-**
85 **sponsored benefits that may be available to such person.**

86 7. **The department of social services shall provide to the general assembly an**
87 **annual report that identifies the number of participants in the program and describes**
88 **the outreach and education efforts to increase awareness and enrollment in the**
89 **program.**

90 8. **The department of social services shall submit such state plan amendments**
91 **and waivers to the Centers for Medicare and Medicaid Services of the federal**
92 **Department of Health and Human Services as the department determines are necessary**
93 **to implement the provisions of this section.**

94 9. The provisions of this section shall expire August 28, 2025.

209.700. 1. This section shall be known and may be cited as the "Missouri
2 Employment First Act".

3 2. As used in this section, unless the context clearly requires otherwise, the
4 following terms mean:

5 (1) "Competitive integrated employment", work that:

6 (a) Is performed on a full-time or part-time basis, including self-employment,
7 and for which a person is compensated at a rate that:

8 a. Is no less than the higher of the rate specified in 29 U.S.C. Section 206(a)(1) or
9 the rate required under any applicable state or local minimum wage law for the place of
10 employment;

11 b. Is no less than the customary rate paid by the employer for the same or
12 similar work performed by other employees who are not persons with disabilities and
13 who are similarly situated in similar occupations by the same employer and who have
14 similar training, experience, and skills;

- 15 c. In the case of a person who is self-employed, yields an income that is
16 comparable to the income received by other persons who are not persons with
17 disabilities and who are self-employed in similar occupations or on similar tasks and
18 who have similar training, experience, and skills; and
- 19 d. Is eligible for the level of benefits provided to other employees;
- 20 (b) Is at a location:
- 21 a. Typically found in the community; and
- 22 b. Where the employee with a disability interacts for the purpose of performing
23 the duties of the position with other employees within the particular work unit and the
24 entire work site and, as appropriate to the work performed, other persons, such as
25 customers and vendors, who are not persons with disabilities, other than supervisory
26 personnel or persons who are providing services to such employee, to the same extent
27 that employees who are not persons with disabilities and who are in comparable
28 positions interact with these persons; and
- 29 (c) Presents, as appropriate, opportunities for advancement that are similar to
30 those for other employees who are not persons with disabilities and who have similar
31 positions;
- 32 (2) "Customized employment", competitive integrated employment for a person
33 with a significant disability that is:
- 34 (a) Based on an individualized determination of the unique strengths, needs, and
35 interests of the person with a significant disability;
- 36 (b) Designed to meet the specific abilities of the person with a significant
37 disability and the business needs of the employer; and
- 38 (c) Carried out through flexible strategies, such as:
- 39 a. Job exploration by the person; and
- 40 b. Working with an employer to facilitate placement, including:
- 41 (i) Customizing a job description based on current employer needs or on
42 previously unidentified and unmet employer needs;
- 43 (ii) Developing a set of job duties, a work schedule and job arrangement, and
44 specifics of supervision, including performance evaluation and review, and determining
45 a job location;
- 46 (iii) Using a professional representative chosen by the person or self-
47 representation, if elected, to work with an employer to facilitate placement; and
- 48 (iv) Providing services and supports at the job location;
- 49 (3) "Disability", a physical or mental impairment that substantially limits one or
50 more major life activities of a person, as defined in the Americans with Disabilities Act
51 of 1990, as amended. The term "disability" does not include brief periods of

52 **intoxication caused by alcohol or drugs or dependence upon or addiction to any alcohol**
53 **or drug;**

54 **(4) "Employment first", a concept to facilitate the full inclusion of persons with**
55 **disabilities in the workplace and community in which community-based, competitive**
56 **integrated employment is the first and preferred outcome for employment services for**
57 **persons with disabilities;**

58 **(5) "Employment-related services", services provided to persons, including**
59 **persons with disabilities, to assist them in finding employment. The term "employment-**
60 **related services" includes, but is not limited to, resume development, job fairs, and**
61 **interview training;**

62 **(6) "Integrated setting", a setting:**

63 **(a) Typically found in the community; and**

64 **(b) Where the employee with a disability interacts for the purpose of performing**
65 **the duties of the position with other employees within the particular work unit and the**
66 **entire work site and, as appropriate to the work performed, other persons, such as**
67 **customers and vendors, who are not persons with disabilities, other than supervisory**
68 **personnel or persons who are providing services to such employee, to the same extent**
69 **that employees who are not persons with disabilities and who are in comparable**
70 **positions interact with these persons;**

71 **(7) "Outcome", with respect to a person entering, advancing in, or retaining full-**
72 **time or, if appropriate, part-time competitive integrated employment, including**
73 **customized employment, self-employment, telecommuting, or business ownership, or**
74 **supported employment that is consistent with a person's unique strengths, resources,**
75 **priorities, concerns, abilities, capabilities, interests, and informed choice;**

76 **(8) "Sheltered workshop", the same meaning given to the term in section**
77 **178.900;**

78 **(9) "State agency", an authority, board, branch, commission, committee,**
79 **department, division, or other instrumentality of the executive branch of state**
80 **government;**

81 **(10) "Supported employment", competitive integrated employment, including**
82 **customized employment, or employment in an integrated setting in which persons are**
83 **working toward a competitive integrated employment, that is individualized and**
84 **customized consistent with the strengths, abilities, interests, and informed choice of the**
85 **persons involved who, because of the nature and severity of their disabilities, need**
86 **intensive supported employment services and extended services in order to perform the**
87 **work involved;**

88 **(11) "Supported employment services", ongoing support services, including**
89 **customized employment, needed to support and maintain a person with a most**
90 **significant disability in supported employment, that:**

91 **(a) Are provided singly or in combination and are organized and made available**
92 **in such a way as to assist an eligible person to achieve competitive integrated**
93 **employment; and**

94 **(b) Are based on a determination of the needs of an eligible person, as specified**
95 **in an individualized plan for employment;**

96 **(12) "Working age", sixteen years of age or older;**

97 **(13) "Youth with a disability", any person fourteen years of age or older and**
98 **under eighteen years of age who has a disability.**

99 **3. All state agencies that provide employment-related services or that provide**
100 **services or support to persons with disabilities shall:**

101 **(1) Develop collaborative relationships with each other, confirmed by a written**
102 **memorandum of understanding signed by each such state agency; and**

103 **(2) Implement coordinated strategies to promote competitive integrated**
104 **employment including, but not limited to, coordinated service planning, job**
105 **exploration, increased job training, and internship opportunities.**

106 **4. All state agencies that provide employment-related services or that provide**
107 **services or support to persons with disabilities shall:**

108 **(1) Implement an employment first policy by considering competitive integrated**
109 **employment as the first and preferred outcome when planning or providing services or**
110 **supports to persons with disabilities who are of working age;**

111 **(2) Offer information on competitive integrated employment to all working-age**
112 **persons with disabilities. The information offered shall include an explanation of the**
113 **relationship between a person's earned income and his or her public benefits,**
114 **information on Achieving a Better Life Experience (ABLE) accounts, and**
115 **information on accessing assistive technology;**

116 **(3) Ensure that persons with disabilities receive the opportunity to understand**
117 **and explore education and training as pathways to employment, including**
118 **postsecondary, graduate, and postgraduate education; vocational and technical**
119 **training; and other training. State agencies shall not be required to fund any**
120 **education or training unless otherwise required by law;**

121 **(4) Promote the availability and accessibility of individualized training designed**
122 **to prepare a person with a disability for the person's preferred employment;**

123 **(5) Promote partnerships with private agencies that offer supported employment**
124 **services, if appropriate;**

125 **(6) Promote partnerships with employers to overcome barriers to meeting**
126 **workforce needs with the creative use of technology and innovation;**

127 **(7) Ensure that staff members of public schools, vocational service programs,**
128 **and community providers receive the support, guidance, and training that they need to**
129 **contribute to attainment of the goal of competitive integrated employment for all**
130 **persons with disabilities;**

131 **(8) Ensure that competitive integrated employment, while the first and preferred**
132 **outcome when planning or providing services or supports to persons with disabilities**
133 **who are of working age, is not required of a person with a disability to secure or**
134 **maintain public benefits for which the person is otherwise eligible; and**

135 **(9) At least once each year, discuss basic information about competitive**
136 **integrated employment with the parents or guardians of a youth with a disability. If the**
137 **youth with a disability has been emancipated, state agencies shall discuss this**
138 **information with the youth with a disability. The information offered shall include**
139 **an explanation of the relationship between a person's earned income and his or her**
140 **public benefits, information about ABLE accounts, and information about accessing**
141 **assistive technology.**

142 **5. Nothing in this section shall require a state agency to perform any action that**
143 **would interfere with the state agency's ability to fulfill duties and requirements**
144 **mandated by federal law.**

145 **6. Nothing in this section shall be construed to limit or disallow any disability**
146 **benefits to which a person with a disability who is unable to engage in competitive**
147 **integrated employment would otherwise be entitled.**

148 **7. Nothing in this section shall be construed to eliminate any supported**
149 **employment services or sheltered workshop settings as options.**

150 **8. (1) Nothing in this section shall be construed to require any state agency or**
151 **other employer to give a preference in hiring to persons with disabilities or to prohibit**
152 **any employment relationship or program that is otherwise permitted under applicable**
153 **law.**

154 **(2) Any person who is employed by a state agency shall meet the minimum**
155 **qualifications and requirements for the position in which the person is employed.**

156 **9. All state agencies that provide employment-related services or that provide**
157 **services or support to persons with disabilities shall coordinate efforts and collaborate**
158 **within and among each other to ensure that state programs, policies, and procedures**
159 **support competitive integrated employment for persons with disabilities who are of**
160 **working age. All such state agencies, when feasible, shall share data and information**
161 **across systems in order to track progress toward full implementation of this section. All**

162 such state agencies are encouraged to adopt measurable goals and objectives to promote
163 assessment of progress in implementing this section.

164 **10. State agencies may promulgate all necessary rules and regulations for the**
165 **administration of this section. Any rule or portion of a rule, as that term is defined in**
166 **section 536.010, that is created under the authority delegated in this section shall**
167 **become effective only if it complies with and is subject to all of the provisions of chapter**
168 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable**
169 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
170 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**
171 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
172 **adopted after August 28, 2023, shall be invalid and void.**

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